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## Memorandum

To: Paul A. Croce, Chairman  
Planning Board members

From: Ron Wolanski, Town Planner

Date: April 6, 2022

Re: **Public Informational Meeting-** Application by Samuel's Realty Co., Inc. for Master Plan approval of a major land development project for a proposed mixed-use development including 60 new residential units and approximately 4,000 sq.ft. of new commercial space, with existing commercial space pursuant to Article 27A of the Middletown Zoning Ordinance and including request for waivers from certain design standards of Section 521 of the Middletown Rules and Regulations Regarding the subdivision and Development of Land, and request for a variance from the Middletown Zoning Ordinance section 27A04(C)(1), to allow businesses within the development to be open without the limitations on hours of operation specified in this section. The subject property is located at 656 & 670-716 Aquidneck Ave., Assessor's Plat 114, Lots 107, 107A, 107B, 107D, 107E, 108 & 109.

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The applicant is proposing to construct 60 townhouse-style units in 15 buildings and a one-story, 4,000 square foot commercial building on approximately 7.5 acres of land abutting the existing Polo Center retail/office complex located on the corner of Aquidneck Ave. and Green End Ave. The property is zoned limited business, traffic sensitive (LBA). The proposed new development would be connected to, and operate as an extension of the Polo Center, resulting in a mixed-use development.

The applicant is requesting approval for this project under the town's mixed-use development ordinance (Article 27A, Middletown Zoning Ordinance). A mixed-use development project is a use allowed by right in the limited business (LB) zoning district. Based on calculations provided by the applicant for the existing commercial space and the proposed development, the proposal meets the residential density limitations of Section 27A05. Please see the attached plans and documents provided by the applicant.

### **TRC Review:**

Per the mixed-use development regulations, this project must undergo development plan review (DPR). However, since this application is for Master Plan approval, which does not require submission of full engineering design for the project, DPR will take place at the Preliminary Plan stage if the Master Plan is approved. The Technical Review Committee reviewed the Master Plan submission during its April 6<sup>th</sup> meeting. Upon completion of review the committee voted unanimously to forward a positive recommendation to the Planning Board subject to the following recommended conditions of approval:

1. Access for Town vehicles to the existing sewer line and easement located along the westerly property line of lots 108 & 109 shall be maintained.
2. A portion of the property is located within Zone 1 of the Watershed Protection District due to the presence of Stissing soils. If necessary, a special use permit to allow development in Zone 1 shall be sought and granted prior to Preliminary Plan approval.
3. The stormwater management plan submitted at Preliminary Plan stage shall demonstrate a reduction in peak flows from the 2-, 10- and 25-year storms compared to current conditions, if feasible.

Review and comment has also been sought from applicable local and state committees and agencies as required. Please see the attached letter from RIDEM indicating that state wetlands and stormwater permitting will be required. Per Town regulations, such permits must be secured prior to submission of the Preliminary Plan application. Comments from others will be provided to the Board as they become available.

### **Zoning Relief Sought:**

Pursuant to Section 27A02(D), the Planning Board has the authority to consider and act on any requests for relief from provisions of the Zoning ordinance. The applicant is seeking the following variance relief:

- Zoning Ordinance section 27A04(C)(1), to allow businesses within the development to be open without the limitations on hours of operation specified in this section. Please see the attached letter from the applicant which explains the reason for this request.

### **Required findings for variance relief:**

(1) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area and is not primarily due to a physical or economic disability of the applicant;

(2) That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;

(3) That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan upon which this chapter is based; and

(4) That the relief to be granted is the least relief necessary.

(5) The Board shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:

(a) In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this chapter. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and

(b) In granting a dimensional variance, that the hardship which will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

(c) Dimensional variances granted in conjunction with a special use permit shall be supported by independent evidence on the record satisfying each of the requirements for a dimensional variance, and the Board shall vote on each dimensional variance before voting on the special use permit.

**Potential Waiver Requests:**

At this stage of review (Master Plan), with the plans and level of detail submitted, the potential necessary waivers from the commercial development design standards of Section 521 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land is unclear. Identification of any necessary waivers will occur at the Preliminary Plan stage of review.

**Required findings** (Subdivision rules and regulations section 403)

The following is a list of the required findings the Board must make in approving a subdivision or land development project. The Board should make its own conclusions as to the consistency of the plan with these findings.

1. The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies;
2. The proposed development is in compliance with the standards and provisions of the Town Zoning Ordinance
3. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions of approval;
4. The subdivision, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. (See definition of Buildable lot). Lots with such physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans;
5. All proposed land developments and all subdivision lots shall have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered compliance with this requirement.

Cc: Applicant